

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FEDERAL DEPOSIT INSURANCE  
CORPORATION AS RECEIVER FOR  
FIRST CORNERSTONE BANK,

Plaintiff,

v.

EDWARD FILBY,

Defendant.

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CIVIL ACTION NO. 16-4518

**ORDER**

**AND NOW**, this 27<sup>th</sup> day of October, 2016, after considering the application to dismiss this action filed by the plaintiff, Federal Deposit Insurance Corporation as Receiver for First Cornerstone Bank (Doc. No. 2); and the *pro se* defendant, Edward Filby, having failed to file a response to the application to dismiss; and after reviewing the notice of removal and the documents attached thereto (Doc. No. 1); and after hearing oral argument from the defendant and counsel for the plaintiff on September 19, 2016; and for the reasons set forth in the separately-filed memorandum opinion, it is hereby **ORDERED** as follows:

1. The plaintiff's application to dismiss (Doc. No. 2) is **GRANTED IN PART** and **DENIED IN PART** as follows:

a. The application to dismiss is **GRANTED** with respect to the defendant's counterclaims and those counterclaims are **DISMISSED WITHOUT PREJUDICE**; and

b. The application to dismiss is **DENIED** with respect to the plaintiff's ejectment action;

2. Pursuant to the Third Circuit Court of Appeals' procedure for cases removed following an entry of judgment by a state court, the court adopts the Court of Common Pleas of

Chester County's February 10, 2016 order in the ejectment action, which (1) **GRANTED** summary judgment in favor of the plaintiff and against the defendant, and (2) provided the plaintiff with exclusive possession of the premises at issue; and

3. The clerk of the court shall mark this matter as **CLOSED**.

BY THE COURT:

/s/ Edward G. Smith  
EDWARD G. SMITH, J.